

U.S.S.N. 10/028,834

-4-

V201-0634 (VGT 0272 PUS)

REMARKS

Claims 10, 12-15, and 20-22 are currently pending in the above application.

Claims 13-15 and 20-22 have been amended to correct a minor informality, in which "driveline" was inadvertently used instead of "composite linkshaft bracket". Reconsideration of claims 13-15 and 20-22 in light of this amendment is respectfully requested.

Claims 10, 12-15, 21 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Reid et al. in view of the Prior Art disclosed by the Applicant in the specification. Claims 20 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Reid et al. in view of the Prior Art disclosed by the Applicant in the specification and further in view of King et al. Applicants respectfully traverse each of the Examiner's rejections.

In response to the Examiner's response on Pages 3 and 4 of the Office Action regarding the preamble, Applicants first direct the Examiner's attention to MPEP Section 2111.02.

In MPEP 2111.02, first paragraph, "a claim preamble has the import that the claim as a whole suggests for it." *Bell Communications Research Inc. v. Vitalink Communications Corp.*, 55 F.3d 615, 620, 34 USPQ2d 1816, 1820 (Fed. Cir. 1995). Further, as noted in the second paragraph, "if the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the preamble is 'necessary to give life, meaning, and vitality to the claim', then the claim preamble should be construed as if in the balance of the claim." *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999).

U.S.S.N. 10/028,834

-5-

V201-0634 (VGT 0272 PUS)

Applicants respectfully submit that the phrase "bearing supported linkshaft in a vehicle driveline" must be given patentable weight to determine patentability of the claim, as required by *Bell and Pitney Bowes*, because it gives further life and meaning to portions of the composite linkshaft described in the text of the claim. For example, the upper and lower semi-circular regions formed in the upper and lower portions, respectively, is of no import without the structure of the bearing supported linkshaft to which they surround and support.

In addition, the phrase "bearing supported linkshaft" is actually included within the last sentence of originally presented claim 10 in addition to the preamble. Thus, contrary to the Examiner's analysis, the bearing support linkshaft must be given patentable weight in reviewing the claim, as it is a portion of the text of the claim, not just a portion of the preamble.

Further, as the bearing support linkshaft is defined is a component of a vehicle driveline throughout the specification and claims, it is necessary to also consider the driveline in making a determination of patentability of the claims at issue.

Thus, Applicants respectfully submit that the phrase "used to support a bearing supported linkshaft in a vehicle" must be given some patentable weight in reviewing the claims at issue.

With this in mind, and as stated in previous Responses, claims 10, 12-15, and 20-22 are distinguished from the Reid et al. reference because they each recite a linkshaft bracket for use in a vehicle driveline, while Reid et al. is directed to a machine used in the textile and paper industry.

Further, the present claims have a composite upper portion coupled to a lower portion such that the composite linkshaft bracket produced has a natural frequency of a minimum of about 1080 Hertz in the first mode, therein addressing a vibration problem found within prior art linkshaft brackets. There is no indication in Reid et al. that

U.S.S.N. 10/028,834

-6-

V201-0634 (VGT 0272 PUS)

vibration is a problem in this type of machine, thus there is no reason to replace the bracket in Reid et al. with a synthetic version to improve vibration resistance

Further, the present claims require a polymer material used in the upper composite portion that has a heat distortion temperature of greater than 180 degrees Celsius, which addresses a second problem found with prior art linkshaft brackets. There is not indication in Reid that heat distortion is a problem in this type of machine, thus there is no reason to replace the bracket in Reid et al. with a synthetic version to improve heat distortion characteristics.

Claims 10, and 12-15 are therefore novel, notwithstanding the Reid et al. reference. Similarly, with respect to claims 21-22, Reid et al. does not disclose a linkshaft bracket having a composite upper portion coupled to a stamped metal lower portion, wherein the linkshaft bracket has a natural frequency of a minimum of about 1080 Hertz in the first mode and wherein the polymer material used in the upper composite portion that has a heat distortion temperature of greater than 180 degrees Celsius. Claims 21-22 are therefore novel, notwithstanding the Reid et al. reference.

King et al. discloses journal blocks made of metal that are used on an overrunning clutch cage assembly. King et al. does not disclose a linkshaft bracket as in the present invention in which a portion of the linkshaft bracket is comprised of a composite material that addressed vibration and heat distortion concerns found in the prior art. As such, claim 20 is novel, notwithstanding the King et al. reference.

Further, as described below, each of claims 10, 12-15, and 20-22 are not obvious over Reid et al. in view of the prior art and further in view of King et al.

Section 2143 of the Manual of Patent Examining Procedure states that three basic criteria must be met for establishing a *prima facie* case of obviousness, stating:

U.S.S.N. 10/028,834

-7-

V201-0634 (VGT 0272 PUS)

"First, there must some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach all of the claim limitations."

"If the examiner does not establish a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." Section 2142 MPEP, ch. 2100, p. 110. "When the references cited by the Examiner fail to establish a *prima facie* case of obviousness, the rejection is improper and will be overturned."<sup>1</sup> One cannot use hindsight reconstruction, picking and choosing among isolated disclosures in the prior art, to deny that the claimed invention is unobvious.<sup>2</sup>

Here, the Examiner has not established a *prima facie* case of obviousness because the combination of the Reid et al. and the prior art references cited in the specification do not disclose or suggest all of the limitations as contained in independent claim 10. Further, the Examiner has not established a *prima facie* case of obviousness because the combination of the Reid et al. and the prior art references and King et al. cited in the specification do not disclose or suggest all of the limitations as contained in dependent claim 20. Specifically, the combination of Reid et al. and the prior art (and King et al.) does not meet the third requirement of MPEP Section 2143, in that the combination of references does not disclose a composite linkshaft bracket used in a vehicle driveline having a composite upper section having a heat distortion temperature of greater than 180 degrees Celsius coupled to a lower section produced that has a natural frequency of a minimum of about 1080 Hertz in the first mode.

<sup>1</sup> *In re Ochiai*, 71 F.3d 1565, 37 U.S.P.Q.2d 1127 (Fed. Cir. 1995), citing *In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

<sup>2</sup> *In re Fine*, 837 F.2d at 1075.

U.S.S.N. 10/028,834

-8-

V201-0634 (VGT 0272 PUS)

Also, even assuming *arguendo* that the combination Reid et al. does meet this third requirement of MPEP 2143, which Applicants do not concede, there is no motivation to combine the references, contrary to the Examiner's analysis, to reject claims 10, 12-15, and 21-22 (MPEP 2143, first requirement). Reid et al. is directed to a machine used in the textile and paper industry, not in a vehicle driveline within the automotive industry. There is no indication in Reid et al. that vibration or heat distortion is a problem in this type of machine, thus there is no reason to replace the bracket in Reid et al., with a synthetic version to improve heat distortion and vibration resistance.

Further, with respect to claim 20, the combination of Reid et al. and the prior art and King et al. does not disclose a composite linkshaft bracket used in a vehicle driveline having a composite upper section having a heat distortion temperature of greater than 180 degrees Celsius coupled to a metal lower section produced such that the composite linkshaft bracket has a natural frequency of a minimum of about 1080 Hertz in the first mode. There is no reason in King et al. reason to replace the upper bracket with a synthetic version to improve heat distortion and vibration resistance.

In view of the foregoing amendments and remarks, Applicants submit that claims 10, 12-15, and 20-22 are allowable. Accordingly, allowance of these claims and passage of the application to issuance are respectfully solicited.

The Examiner is authorized to charge any additional fees that may be required, or credit any overpayment, to Deposit Account No. 50-0476 in the name of John A. Artz, P.C.

U.S.S.N. 10/028,834

-9-

V201-0634 (VGT 0272 PUS)

The Examiner is invited to telephone the Applicants' undersigned attorney at  
(248) 223-9500 if any unresolved matters remain.

Respectfully submitted,

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Dated: January 27, 2004